

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

THE CITY OF NEW YORK, *et al.*,

Plaintiffs,

v.

U.S. DEPARTMENT OF DEFENSE, *et al.*,¹

Defendants.

No. 1:17-cv-01464
Hon. Claude M. Hilton
Hon. Michael S. Nachmanoff

DEFENDANTS' MOTION TO DISMISS

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and (b)(6), Defendants, the U.S. Department of Defense, its components, and its officials, through their undersigned counsel, hereby respectfully move this Court to dismiss the complaint for lack of subject-matter jurisdiction and failure to state a claim. The grounds for this motion are fully explicated in the simultaneously-filed memorandum of law in support of the motion.

///

///

¹ Rear Admiral John B. Nowell, Commander, Navy Personnel Command, is substituted for Rear Admiral Richard A. Brown as a defendant in this case pursuant to Federal Rule of Civil Procedure 25(d).

Respectfully submitted this 5th day of March 2018,

CHAD A. READLER
Acting Assistant Attorney General

TRACY DOHERTY-McCORMICK
Acting United States Attorney

/s/
DENNIS C. BARGHAAN, JR.
Deputy Chief, Civil Division
Assistant U.S. Attorney
2100 Jamieson Avenue
Alexandria, VA 22314
Tel: (703) 299-3891
Fax: (703) 299-3983

ANTHONY J. COPPOLINO
Deputy Director, Federal Programs Branch

DANIEL HALAINEN
Trial Attorney, Federal Programs Branch
U.S. Department of Justice, Civil Division
20 Massachusetts Avenue, NW
Washington, DC 20530
Tel: (202) 616-8101
Fax: (202) 616-8470
daniel.j.halainen@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will transmit a true and correct copy of the same to the following:

Matthew Jeffrey Maclean
Pillsbury Winthrop Shaw Pittman LLP
1200 17th Street, N.W.
Washington, DC 20036
Matthew.Maclean@pillsburylaw.com

Laura B. LoBue
Pillsbury Winthrop Shaw Pittman LLP
1200 17th Street, N.W.
Washington, DC 20036
Laura.LoBue@pillsburylaw.com

Date: March 5, 2018

/s/
DENNIS C. BARGHAAN, JR.
Assistant U.S. Attorney
2100 Jamieson Avenue
Alexandria, VA 22314
Tel: (703) 299-3891
Fax: (703) 299-3983

Attorney for Defendants